

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

2 - - - - - x  
3 YEVGENTY DIKLER,

4 Plaintiff,

5 -against-

6 THE CITY OF NEW YORK, DETECTIVE MICHAEL  
7 VISCONTI, SHIELD 06482, SECURITY OFFICER  
8 WILSON VEGA, HWA, INC.,

9 Defendants.

10 - - - - - x  
11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF NEW YORK

13 LAJZER GRYNSZTAIN,

14 Plaintiff,

15 -against-

16 THE CITY OF NEW YORK, DETECTIVE MICHAEL  
17 WILLIAMS, SHIELD 06409, SECURITY OFFICER  
18 WILSON VEGA, HWA, INC.,

19 Defendants.

20 - - - - - x  
21  
22  
23 MAY 21, 2008

24  
25 11:55 A.M.

	<p>Page 2</p> <p>1 MAY 21, 2008 2 3 11:55 A.M. 4 5 6 7 8 9 EXAMINATION BEFORE TRIAL of the 10 DEFENDANTS by MICHAEL VISCONTI taken by the 11 PLAINTIFFS, pursuant to Order, held at the 12 office of Lester Schwab Katz &amp; Dwyer, 120 13 Broadway, New York, New York taken before 14 Mindy Corcoran, a Shorthand Reporter and 15 Notary Public of the State of New York.</p> <p>16 17 18 * * *</p> <p>19 20 21 22 23 24 25</p>	Page 4
	<p>Page 3</p> <p>1 APPEARANCES: 2 DAVID A. ZELMAN, ESQ. 3 Attorney for Plaintiffs 4 612 Eastern Parkway 5 Brooklyn, New York 11225 6 7 MICHAEL A. CARDODO 8 Corporation Counsel of the 9 City of New York 10 Special Federal Litigation Unit 11 100 Church Street 12 New York, New York 10007 13 BY: JOYCE CAMPBELL PRIVETERRE, ESQ. 14 15 LESTER SCHWAB KATZ &amp; DWYER 16 Attorneys for Defendant HWA, Inc. 17 120 Broadway 18 New York, New York 19 BY: LEONARD SILVERMAN, ESQ.</p> <p>1 M. Visconti 2 MICHAEL VISCONTI, 3 the Witness herein, having first been duly 4 sworn by the Notary Public, was examined 5 and testified as follows: 6 EXAMINATION BY 7 MR. ZELMAN: 8 Q. Would you please state your name 9 for the record. 10 A. Michael Visconti. 11 Q. What is your present business 12 address? 13 A. 11-40 45th Road, Long Island, 14 New York 11701. 15 Q. Good morning. 16 A. Good morning. 17 Q. My name is David Zelman, and I 18 represent the Visconti plaintiffs. I am going 19 to ask you some questions today with respect 20 to a case called Dikler versus The City of New 21 York, et al. 22 If at any time you do not 23 understand my question just let me know and I 24 will try to rephrase it for you. 25 You understand that if there is</p>	Page 5

<p>1 M. Visconti  2 a question pending, your counsel is not  3 allowed to speak to you about it. The only  4 thing he can do is object to the form of the  5 question.</p> <p>6 Do you understand that?</p> <p>7 A. Yes.</p> <p>8 Q. You could take a break at any  9 time, but you have to answer any questions  10 that are pending. Okay?</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever testified before?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever testified in a  15 civil case before?</p> <p>16 A. Yes.</p> <p>17 Q. And how many times have you  18 testified in a civil case?</p> <p>19 A. Once, I believe.</p> <p>20 Q. Have you ever testified in a  21 deposition forum like this?</p> <p>22 A. Yes.</p> <p>23 Q. Was that also a case brought  24 against you as a sergeant, police officer or a  25 detective?</p>	<p>Page 6</p> <p>1 M. Visconti  2 Q. What year was it that you  3 testified in that case?</p> <p>4 A. I don't understand the question.</p> <p>5 Q. What year did you testify in  6 that case?</p> <p>7 A. This year.</p> <p>8 Q. 2008?</p> <p>9 A. Yes.</p> <p>10 Q. And the corporation counsel was  11 your attorney?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know if the case is still  14 pending?</p> <p>15 A. I am not sure.</p> <p>16 Q. Was that the only time you  17 testified in a civil case other than today?</p> <p>18 A. Yes.</p> <p>19 Q. You are now a detective; is that  20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. What is your title?</p> <p>23 A. Detective-investigator.</p> <p>24 Q. How long has that been your  25 title?</p>
<p>1 M. Visconti  2 A. Yes.</p> <p>3 Q. What was the name of that case?</p> <p>4 MS. PRIVETTERRE: If you can  5 remember.</p> <p>6 A. Clanton versus New York City.</p> <p>7 Q. What was that?</p> <p>8 A. Clanton.</p> <p>9 Q. Do you know how to spell that?</p> <p>10 A. C-L-A-N-T-O-N.</p> <p>11 Q. Was that a false arrest case?</p> <p>12 A. I am not sure. I think so.</p> <p>13 Q. What court was that case in?</p> <p>14 A. I don't know.</p> <p>15 Q. Did you testify here in  16 Manhattan?</p> <p>17 A. It was a deposition.</p> <p>18 Q. At a deposition?</p> <p>19 A. Yes.</p> <p>20 Q. Did it go to trial, if you know?</p> <p>21 A. No, I don't know.</p> <p>22 Q. Do you remember the allegations  23 in that case?</p> <p>24 A. I am not sure. I think it was  25 a false arrest.</p>	<p>Page 7</p> <p>1 M. Visconti  2 A. Since May of 2002, I believe.</p> <p>3 Q. Prior to that, what was your  4 title?</p> <p>5 A. Detective-specialist.</p> <p>6 Q. Do you remember when you got  7 that title?</p> <p>8 A. July of '99.</p> <p>9 Q. Prior to that?</p> <p>10 A. Police officer.</p> <p>11 Q. When did you become a police  12 officer?</p> <p>13 A. 1992.</p> <p>14 Q. Did you do street patrol?</p> <p>15 A. Yes.</p> <p>16 Q. How long?</p> <p>17 A. Up until 2002.</p> <p>18 Q. From 1992 until 2002?</p> <p>19 A. Yes.</p> <p>20 Q. So it was approximately ten  21 years?</p> <p>22 A. Yes.</p> <p>23 Q. Were you at the same precinct or  24 did you work at different precincts?</p> <p>25 A. I stayed at the same precinct.</p>

	Page 10		Page 12
1	M. Visconti	1	M. Visconti
2	Q. What precinct?	2	how long ago?
3	A. 108th.	3	MR. ZELMAN: No, just for how
4	Q. Is that in Queens?	4	long.
5	A. Yes.	5	MS. PRIVETERRE: In his entire
6	Q. As an officer at the 108th, did	6	career?
7	you perform more than 100 arrests?	7	MR. ZELMAN: At 26 Federal
8	A. Yes.	8	Plaza, the amount of time he was working
9	Q. Ranging from murders, rapes to	9	there.
10	shoplifting, et cetera?	10	A. I was there on individual days
11	MS. PRIVETERRE: Objection to	11	at a time.
12	the form.	12	Q. Why would you get called in to
13	Can you break that down?	13	26 Federal Plaza?
14	Q. And so you did all types of	14	MS. PRIVETERRE: Objection to
15	arrests?	15	the form. He didn't say he was called
16	A. Yes.	16	in.
17	Q. And when you became a	17	Q. Did you get called in to 26
18	detective-specialist, were you assigned to a	18	Federal Plaza?
19	specific unit?	19	A. Could you rephrase the question?
20	A. Patrol.	20	Q. What brought you to 26 Federal
21	Q. Patrol?	21	Plaza?
22	A. Yes.	22	MS. PRIVETERRE: When?
23	Q. Did you remain on patrol as a	23	Q. The first time you went there.
24	detective-specialist?	24	A. I was sent there.
25	A. Yes.	25	Q. By whom?
	Page 11		Page 13
1	M. Visconti	1	M. Visconti
2	Q. Are you still on patrol now?	2	A. By my superiors.
3	A. No.	3	Q. At the internal affairs?
4	Q. When did you stop being on	4	A. Yes.
5	patrol?	5	Q. What was the purpose?
6	A. May of 2002.	6	A. There were individuals there who
7	Q. Where are you stationed now?	7	had duplicate shields.
8	MS. PRIVETERRE: Do you mean	8	Q. On how many working days were
9	what command he is at?	9	you at 26 Federal Plaza investigating
10	A. Could you repeat the question,	10	duplicate shields or shield issues?
11	please?	11	A. I don't know.
12	Q. Where do you report to work?	12	Q. Was it more than a month?
13	A. Do you want the address?	13	A. No.
14	Q. The command.	14	Q. Was it less than a month?
15	A. Internal affairs bureau.	15	A. Yes.
16	Q. Did there come a time that you	16	Q. Was it more than two weeks?
17	worked at 26 Federal Plaza?	17	A. No.
18	A. No.	18	Q. Was it less than two weeks?
19	Q. Were you ever present there in a	19	A. Yes.
20	working capacity?	20	Q. Was it more than five days?
21	A. Yes.	21	A. Was it a total of maybe five
22	Q. How often were you present there	22	days.
23	in a working capacity? Was it more than a	23	Q. Five days total?
24	month? Was it more than a year?	24	A. Yes.
25	MS. PRIVETERRE: Are you asking	25	Q. You were the arresting officer

<p>1 M. Visconti  2 for Mr. Dikler; is that correct?  3 A. Yes.  4 MS. PRIVETERRE: Objection to  5 the form.  6 Q. Were there any other persons at  7 26 Federal Plaza that you arrested for  8 badge-related issues?  9 MS. PRIVETERRE: When?  10 MR. ZELMAN: At any other time.  11 A. Me personally?  12 Q. Yes.  13 A. No.  14 Q. He was your only arrest at 26  15 Federal Plaza for a badge-related issues?  16 MS. PRIVETERRE: Do you  17 understand what he is asking?  18 A. Me, as me being the arresting  19 officer?  20 Q. Yes.  21 A. Yes.  22 Q. The five times that you went  23 there, that was each time to investigate a  24 badge-related issue?  25 MS. PRIVETERRE: Objection.</p>	<p>Page 14</p> <p>1 M. Visconti  2 the form. Do you know what he is  3 asking?  4 A. Rephrase the question.  5 Q. The other times you reported to  6 26 Federal Plaza to investigate a  7 badge-related issue; do you recall if it was  8 in March of 2006?  9 A. No.  10 Q. Do you remember if it was in a  11 different month?  12 A. I am not sure what month it was.  13 Q. Do you recall if it was in 2006?  14 A. I am not sure.  15 Q. Have you ever been to 26 Federal  16 Plaza in 2008 to investigate a badge-related  17 issue?  18 A. No.  19 Q. When you were sent to 26 Federal  20 Plaza on the Dikler case, who sent you?  21 MS. PRIVETERRE: Objection.  22 What do you mean by sent?  23 Q. When you were informed to go  24 there, who informed you?  25 A. I received a phone call from one</p>
<p>1 M. Visconti  2 A. I don't know. I don't know if  3 every single occurrence was for that  4 specifically.  5 Q. How many times did you report to  6 26 Federal Plaza for a badge-related issue?  7 A. I don't know.  8 Q. More than once?  9 A. Yes.  10 Q. More than twice?  11 A. Yes.  12 Q. More than three times?  13 A. I don't know.  14 Q. This arrest occurred on March  15 22, 2006; is that correct?  16 A. I think so, yes.  17 Q. These other times that you  18 reported to 26 Federal Plaza for a  19 badge-related issue, do you remember if it was  20 before this time or after this time?  21 A. It was probably before and  22 after. I am not certain.  23 Q. Was it in approximately March of  24 2006 or other months?  25 MS. PRIVETERRE: Objection to</p>	<p>Page 15</p> <p>1 M. Visconti  2 of the supervisors at the office.  3 Q. Do you remember the person's  4 name?  5 A. No.  6 Q. Was it a supervisor at internal  7 affairs?  8 A. Yes.  9 Q. Is it common that you would get  10 a call from a supervisor at internal affairs  11 to go to a specific location and investigate a  12 certain allegation or crime?  13 MS. PRIVETERRE: Objection to  14 the form. What do you mean by common?  15 Q. You could answer the question.  16 MS. PRIVETERRE: I don't know  17 what common means.  18 Q. Is it typical in your  19 performance --  20 MS. PRIVETERRE: I don't know  21 what typical means.  22 MR. ZELMAN: Excuse me,  23 counselor.  24 MS. PRIVETERRE: I don't know  25 what typical means.</p>

	Page 18		Page 20
1	M. Visconti	1	M. Visconti
2	MR. ZELMAN: Look it up.	2	you to guess.
3	MS. PRIVETERRE: What do these	3	A. I don't remember.
4	words that are qualifying as typical and	4	Q. Was it in 2008?
5	common --	5	A. I don't remember.
6	MR. ZELMAN: Let me ask my	6	Q. Was it last week?
7	questions. The federal rules are, if	7	A. No.
8	you have an objection, you could say	8	Q. Was it this month, May 2008?
9	objection to form and that is it.	9	A. No.
10	Q. Sir, is it typical or common in	10	Q. Was it in April of 2008?
11	your professional duties to report to a	11	A. No.
12	certain location after you get a call from a	12	Q. Can you approximate when you
13	supervisor?	13	testified in front of the CCRB?
14	MS. PRIVETERRE: Do you know	14	MS. PRIVETERRE: You mean the
15	what he means when he uses the words	15	last time?
16	"typical" or "common" or would you like	16	MR. ZELMAN: Yes, the most
17	him to rephrase the question?	17	recent time.
18	Q. Is it routine for you?	18	A. It has been several years.
19	A. Yes.	19	Q. That was the most recent time,
20	Q. How many times have you	20	several years ago?
21	testified in criminal cases?	21	A. Yes.
22	A. I don't know.	22	Q. Do you recall what the
23	Q. Was it more than 100?	23	allegation was in that case?
24	A. I don't know.	24	A. No.
25	Q. Was it more than 50?	25	Q. Do you recall the outcome?
	Page 19		Page 21
1	M. Visconti	1	M. Visconti
2	A. I don't know.	2	A. No.
3	Q. Was it more than ten?	3	Q. The other case where you
4	A. Yes.	4	testified in front of the CCRB, do you recall
5	Q. Was it more than 20?	5	what year that was?
6	A. I don't know.	6	A. No.
7	Q. Is there any way that you could	7	Q. Do you recall what the
8	find out?	8	allegation was?
9	A. Probably.	9	A. No.
10	Q. How?	10	Q. Do you remember the outcome?
11	A. If I went over every arrest I	11	A. No.
12	ever made to see how far it went in court.	12	Q. Were you ever disciplined from
13	Q. Have you ever testified in front	13	the time you began working at the NYPD?
14	of the CCRB?	14	A. Yes.
15	A. Yes.	15	Q. When?
16	Q. How many times?	16	A. In the police academy I was
17	A. I am not sure.	17	issued a CD for being late.
18	Q. Was it more than five?	18	Q. Any other time?
19	A. No.	19	A. And I was issued a CD some time
20	Q. More than two?	20	after 2002.
21	A. Yes.	21	Q. Do you remember what it was for?
22	Q. When was the last time you	22	A. Failure to notify a supervisor.
23	testified in front of the CCRB?	23	Q. Were you docked vacation pay or
24	A. I don't remember.	24	did you receive any other discipline for those
25	MS. PRIVETERRE: We don't want	25	things?

<p>1 M. Visconti</p> <p>2 A. No.</p> <p>3 Q. Was there any other discipline</p> <p>4 action at the NYPD?</p> <p>5 A. No.</p> <p>6 Q. Have you ever been arrested?</p> <p>7 A. No.</p> <p>8 Q. Are you still full time with the</p> <p>9 NYPD?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall the arrest of Mr.</p> <p>12 Dikler?</p> <p>13 A. Somewhat.</p> <p>14 Q. What do you recall about it?</p> <p>15 A. I arrested him for being in</p> <p>16 possession of a duplicate type of NYPD</p> <p>17 detective shield.</p> <p>18 Q. Prior to the arrest, did you</p> <p>19 investigate, did you look at that shield, that</p> <p>20 badge?</p> <p>21 A. Rephrase the question.</p> <p>22 Q. Did you decide to place Mr.</p> <p>23 Dikler under arrest?</p> <p>24 A. Yes.</p> <p>25 Q. Before you decided to place Mr.</p>	<p>Page 22</p> <p>1 M. Visconti</p> <p>2 Q. Did you receive the call on</p> <p>3 March 22 to go to 26 Federal Plaza?</p> <p>4 A. Yes, it was on the same day.</p> <p>5 Q. It was on the same day?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall if that was the</p> <p>8 first time you ever performed an arrest for</p> <p>9 somebody in possession of allegedly a forged</p> <p>10 badge?</p> <p>11 A. I don't remember.</p> <p>12 Q. Do you remember placing anyone</p> <p>13 under arrest for a badge-related issue at any</p> <p>14 other time?</p> <p>15 MS. PRIVETERRE: Objection to</p> <p>16 the form.</p> <p>17 A. There were other people</p> <p>18 arrested, but I don't remember if it was for</p> <p>19 badge related or police impersonation.</p> <p>20 Q. Before you went to 26 Federal</p> <p>21 Plaza did you receive instructions about what</p> <p>22 you were to do when you got there?</p> <p>23 MS. PRIVETERRE: When?</p> <p>24 Q. On March 22 or any time before.</p> <p>25 A. Yes.</p>
<p>1 M. Visconti</p> <p>2 Dicker under arrest, did you look at the</p> <p>3 badge?</p> <p>4 A. Yes.</p> <p>5 Q. What did the badge say, if you</p> <p>6 recall?</p> <p>7 A. I don't remember exactly.</p> <p>8 Q. Do you remember if it said he</p> <p>9 worked at the Transit Authority?</p> <p>10 MS. PRIVETERRE: You mean those</p> <p>11 exact words?</p> <p>12 Q. Or the MTA.</p> <p>13 A. Something to that effect, but I</p> <p>14 don't remember what it said.</p> <p>15 Q. To your knowledge, how many</p> <p>16 people were arrested at 26 Federal Plaza from</p> <p>17 2005 to 2008 with respect to badges?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you know if it was more than</p> <p>20 100?</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know why you received the</p> <p>23 assignment to go to 26 Federal Plaza on this</p> <p>24 particular date as opposed to someone else?</p> <p>25 A. Probably we were available.</p>	<p>Page 23</p> <p>1 M. Visconti</p> <p>2 Q. When did you receive those</p> <p>3 instructions?</p> <p>4 A. I don't remember.</p> <p>5 Q. Did you receive them in writing</p> <p>6 or did you receive them orally?</p> <p>7 A. Orally.</p> <p>8 Q. Who told you those instructions?</p> <p>9 A. The super. I don't know who</p> <p>10 specifically.</p> <p>11 Q. Do you recall if it was the date</p> <p>12 of the incident or some other date?</p> <p>13 A. Some other date.</p> <p>14 Q. Do you recall what the</p> <p>15 instructions were?</p> <p>16 A. Specifically, no.</p> <p>17 Q. In general.</p> <p>18 A. In general, basically, anyone</p> <p>19 who went into Federal Plaza with a forged</p> <p>20 shield of any type would be arrested.</p> <p>21 Q. How were you to determine</p> <p>22 whether or not it was forged?</p> <p>23 A. Training as a police officer</p> <p>24 and/or intelligence bulletins which described</p> <p>25 it specifically.</p>

<p>1 M. Visconti</p> <p>2 Q. Did you receive any specific</p> <p>3 intelligence bulletins with respect to the</p> <p>4 Dikler shield?</p> <p>5 A. Would you rephrase the question?</p> <p>6 Q. Sure. You indicated that one</p> <p>7 way to figure out if the shield was forged was</p> <p>8 if you received an intelligence instruction;</p> <p>9 is that correct?</p> <p>10 MS. PRIVETERRE: Objection to</p> <p>11 the form.</p> <p>12 A. Are you referring to the</p> <p>13 intelligence bulletin?</p> <p>14 Q. Yes. What did the intelligence</p> <p>15 bulletin say, if you recall?</p> <p>16 MS. PRIVETERRE: Which one?</p> <p>17 MR. ZELMAN: Regarding a</p> <p>18 shield.</p> <p>19 A. It defined the specific shape of</p> <p>20 the shields that were allowed to be carried</p> <p>21 and by what persons.</p> <p>22 Q. So it listed permissible</p> <p>23 shields; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Did it have pictures of shields</p>	<p>Page 26</p> <p>1 M. Visconti</p> <p>2 it.</p> <p>3 Q. Can you describe the instruction</p> <p>4 sheet better?</p> <p>5 A. Sure. The shield possessed by</p> <p>6 law enforcement, specifically, for the city</p> <p>7 police department can be described and</p> <p>8 nothing can resemble them in terms of shape,</p> <p>9 which is the starburst. And there are a few</p> <p>10 people who are actually allowed to carry</p> <p>11 shields, such as registered law enforcement</p> <p>12 and security guards.</p> <p>13 Q. So is that what instruction the</p> <p>14 instruction sheet said?</p> <p>15 A. To some extent, yes.</p> <p>16 Q. Any time you see a starburst, if</p> <p>17 it wasn't an authorized NYPD holder, it was</p> <p>18 forged?</p> <p>19 MS. PRIVETERRE: Is that</p> <p>20 correct?</p> <p>21 THE WITNESS: No.</p> <p>22 MS. PRIVETERRE: Listen to the</p> <p>23 way he is characterizing it.</p> <p>24 THE WITNESS: No.</p> <p>25 Q. Can you categorize it?</p>
<p>1 M. Visconti</p> <p>2 that were not permissible?</p> <p>3 A. Specifically, no.</p> <p>4 Q. Unless the shield fell into one</p> <p>5 of these categories on the instructions, it</p> <p>6 was a forged badge?</p> <p>7 MS. PRIVETERRE: Objection to</p> <p>8 the form. Are you asking him a</p> <p>9 question?</p> <p>10 MR. ZELMAN: Yes, that is the</p> <p>11 question.</p> <p>12 MS. PRIVETERRE: May I have</p> <p>13 that read back?</p> <p>14 [The requested portion of the</p> <p>15 record was read.]</p> <p>16 MS. PRIVETERRE: Which</p> <p>17 categories, that is what I am not</p> <p>18 following?</p> <p>19 Q. You indicated that you received</p> <p>20 an instruction sheet listing the permissible</p> <p>21 badges; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. How many permissible badges were</p> <p>24 on the instruction sheet?</p> <p>25 A. That doesn't exactly describe</p>	<p>Page 27</p> <p>1 M. Visconti</p> <p>2 A. The court officers have shields</p> <p>3 like detectives. There are various types of</p> <p>4 shields, but it is limited as to who is</p> <p>5 allowed to possess a shield and if they are</p> <p>6 allowed to possess a shield. There are</p> <p>7 defined shapes as to what the shield looks</p> <p>8 like. For example, a security guard's</p> <p>9 shield, it should be in a specific shape.</p> <p>10 Q. How long was this instruction</p> <p>11 sheet? Was it one page?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have a copy of it?</p> <p>14 A. Not with me, no.</p> <p>15 Q. Do you remember when you saw it?</p> <p>16 A. Not specifically.</p> <p>17 Q. Do you remember what year?</p> <p>18 A. 2006.</p> <p>19 Q. Is it safe to say that unless a</p> <p>20 person was authorized to wear a starburst-type</p> <p>21 of shield, for example, a court officer, a</p> <p>22 police officer, that any other persons wearing</p> <p>23 a starburst shield would be arrested for a</p> <p>24 forged shield?</p> <p>25 MS. PRIVETERRE: Objection to</p>

<p>1 M. Visconti  2 the form. Objection to the safe to  3 say.  4 But, otherwise, do you  5 understand what he is asking?  6 THE WITNESS: Yes.  7 Q. Can you answer it?  8 A. Yes.  9 Q. And that is the situation we  10 found ourselves in on March 22 when Mr. Dikler  11 was arrested, he was not authorized to carry a  12 starburst type of a shield; correct?  13 A. Yes.  14 Q. How did you do that?  15 A. He had ID.  16 Q. He had ID?  17 A. Yes.  18 Q. Did you ever call his employer  19 on that date to verify his employment there?  20 A. No.  21 Q. Because you were confident that</p>	<p>Page 30</p> <p>1 M. Visconti  2 MR. ZELMAN: You could object to  3 the form.  4 MS. PRIVETERRE: May I have that  5 read back, please.  6 [The requested portion of the  7 record was read.]  8 A. The question -- there is no way  9 for me to know that.  10 Q. When you arrested Mr. Dikler,  11 did you feel that he was trying to trick  12 anybody?  13 MS. PRIVETERRE: When?  14 MR. ZELMAN: At any time.  15 MS. PRIVETERRE: At any time  16 that day?  17 MR. ZELMAN: Yes.  18 Q. Prior to your arrest.  19 A. When you say trick I don't  20 understand.  21 Q. In any respect, do you know if  22 he tried to use the shield to get into the  23 building?  24 A. No.  25 MS. PRIVETERRE: Is that a no,</p>
<p>1 M. Visconti  2 he did, in fact, work there?  3 A. Yes.  4 MS. PRIVETERRE: Objection to  5 the form.  6 Q. And that is because you felt the  7 ID was valid?  8 MS. PRIVETERRE: Which ID?  9 MR. ZELMAN: The Transit  10 Authority ID.  11 MS. PRIVETERRE: Is that  12 correct?  13 THE WITNESS: Yes.  14 Q. When you arrested Mr. Dikler,  15 did you feel that he had any intent to deceive  16 anybody about the fact that he worked at the  17 Transit Authority?  18 MS. PRIVETERRE: Objection to  19 the form. He is not a mind reader.  20 What are you asking?  21 MR. ZELMAN: You could object to  22 the form, but you can't ask questions.  23 That is all you could do.  24 MS. PRIVETERRE: If I can't  25 understand it -- what are you asking?</p>	<p>Page 31</p> <p>1 M. Visconti  2 you don't know?  3 A. No, I don't know.  4 Q. You never found out if he ever  5 tried to use the shield to get into the  6 building?  7 A. No.  8 Q. Did anybody tell you that shield  9 was forged at 26 Federal Plaza, did anybody  10 that day tell you that this shield was forged?  11 A. No.  12 Q. It was your decision?  13 A. Well, the question -- my  14 decision, you mean based on what?  15 Q. Based upon your investigation  16 that the shield was forged.  17 A. Yes.  18 Q. Did anyone participate in that  19 decision and tell you, I think it is forged,  20 or I don't think it is forged?  21 MS. PRIVETERRE: Objection to  22 the form.  23 A. I don't understand question.  24 Q. Did you speak to any other  25 officer or any other secretary on March 22,</p>

<p style="text-align: right;">Page 34</p> <p>1                   M. Visconti  2 about whether or not the shield was forged?  3                   MS. PRIVETERRE: When?  4                   MR. ZELMAN: On March 22.  5                   MS. PRIVETERRE: The whole day?  6                   MR. ZELMAN: The whole day.  7                   MS. PRIVETERRE: The whole day  8 before the arrest?  9                   MR. ZELMAN: The whole day.  10                  A. Yes.  11                  Q. Who did you speak to?  12                  A. I don't remember. There were  13 several people there.  14                  Q. When you say there, do you mean  15 at 26 Federal Plaza?  16                  A. Yes.  17                  Q. Do you remember if you spoke to  18 the NYPD or to someone else?  19                  A. My partner was with me.  20                  Q. Who is your partner?  21                  A. I don't know who my partner was  22 on that day, I am not sure.  23                  Q. What did he or she say to you?  24                  A. I don't remember.  25                  Q. Did it influence you about</p>	<p style="text-align: right;">Page 36</p> <p>1                   M. Visconti  2                  A. Yes.  3                  Q. What was that?  4                  A. Bus drivers do not have shields.  5                  Q. Where did you learn that  6 information from?  7                  A. I had spoken to someone at the  8 MTA.  9                  Q. So you personally knew that bus  10 drivers were not supposed to have shields?  11                  A. Yes.  12                  Q. Do you remember the person who  13 told you that?  14                  A. No.  15                  Q. Before you arrested Mr. Dikler,  16 did you ask him where he got this shield?  17                  A. Me specifically, no.  18                  Q. Did you find out where he got  19 the shield before you made the arrest?  20                  A. Yes.  21                  Q. And how did you find that out?  22                  A. He had made statements to others  23 indicating that he purchased it from someone.  24                  Q. Did you find out what he had  25 said?</p>
<p style="text-align: right;">Page 35</p> <p>1                   M. Visconti  2 whether or not to perform this arrest?  3                  A. No.  4                  Q. More so than anything else, you  5 did this arrest because the instruction sheet  6 did not allow Mr. Dikler to carry this  7 particular shield?  8                  MS. PRIVETERRE: Please read  9 back the question.  10                 [The requested portion of the  11 record was read.]  12                 MS. PRIVETERRE: Objection to  13 the form.  14                 MR. ZELMAN: That is all you  15 could say.  16                 MS. PRIVETERRE: More or less,  17 do you understand what the question is  18 asking or purports to ask?  19                 THE WITNESS: Yes, but it is  20 kind of general.  21                 Q. Other than instructions you got  22 from the instruction sheet, was there any  23 other factor which you used to make a  24 determination to do the arrest with Mr.  25 Dikler?</p>	<p style="text-align: right;">Page 37</p> <p>1                   M. Visconti  2                  A. Specifically, what I had just  3 stated.  4                  Q. Which was what?  5                  A. He purchased it from someone  6 else.  7                  Q. Did you find out where he had  8 purchased it?  9                  A. No.  10                 Q. Do you know if he purchased it  11 on MTA property or not?  12                  A. I don't know.  13                  Q. Is it true, the fact that Mr.  14 Dikler worked at the Transit Authority had no  15 bearing on whether or not he was going to be  16 arrested on that day?  17                 MS. PRIVETERRE: Objection to  18 the form.  19                 You could answer if you  20 understand the question.  21                  A. I don't really understand it.  22                  Q. The fact that he worked at the  23 MTA or at the Transit Authority was irrelevant  24 to this arrest; is that correct?  25                 MS. PRIVETERRE: Objection to</p>

<p>1 M. Visconti 2 the form. 3 A. How do you mean that? 4 Q. When you made the arrest, it was 5 not your claim that he was not working at the 6 Transit Authority and trying to trick people 7 into believing that he was working at the 8 Transit Authority; is that correct? 9 MR. SILVERMAN: Objection to 10 the form. 11 MS. PRIVETERRE: Objection to 12 the form. 13 Could you rephrase that, please, 14 Mr. Zelman? 15 MR. ZELMAN: I will withdraw 16 the question. 17 Q. Do you know if every badge that 18 went through 26 Federal Plaza was 19 investigated? 20 MS. PRIVETERRE: At what time 21 frame? 22 MR. ZELMAN: At any time. 23 MS. PRIVETERRE: The time frame 24 that he had been called there? 25 MR. ZELMAN: Let's say in 2006.</p>	<p>Page 38</p> <p>1 M. Visconti 2 MS. PRIVETERRE: Objection to 3 the form. 4 A. Specifically? 5 Q. Yes. 6 A. You would have to rephrase the 7 question. 8 Q. When the Federal Protective 9 Service was called, were they telling you they 10 wanted to do an arrest or that the NYPD should 11 investigate whether or not to do an arrest? 12 MS. PRIVETERRE: Do you 13 understand what is being asked? 14 A. If you could rephrase the 15 question, I'm sorry. 16 Q. When the Federal Protective 17 Service was called -- 18 A. Yes. 19 Q. -- what would they say? 20 A. In general, there is someone 21 here with a forged shield. 22 Q. They would say it is forged? 23 A. Yes. 24 Q. Do you know how they made a 25 determination it was forged?</p>
<p>1 M. Visconti 2 Q. Were you aware of a policy in 3 Federal Plaza that all badges had to be 4 investigated? 5 A. Yes. 6 Q. When did you become aware of 7 that? 8 A. I don't remember. 9 Q. What did you become aware of? 10 A. They would notify us if someone 11 was found to be in possession of a shield. 12 Q. When you say they, who are you 13 referring to? 14 A. 26 Federal Plaza. 15 Q. Who at 26 Federal Plaza would 16 tell you that? 17 A. Federal Protective Service. 18 Q. Was the Federal Protective 19 Service called up in the NYPD or would they 20 call up internal affairs? 21 A. Yes. 22 Q. Would they tell internal affairs 23 we have here a fake badge or we have a badge 24 that we want you to look into or something 25 else?</p>	<p>Page 39</p> <p>1 M. Visconti 2 MS. PRIVETERRE: Again, we are 3 talking about generally and not about 4 the Dikler arrest? 5 MR. ZELMAN: Right. 6 MR. SILVERMAN: Objection to 7 the form. 8 Q. Generally speaking. 9 A. They were trained. 10 Q. You didn't speak to the Federal 11 Protective Services over the phone while you 12 were at internal affairs; is that correct? 13 MS. PRIVETERRE: Objection to 14 the form. 15 A. On what date? 16 Q. March 22. 17 A. I don't think I spoke to them. 18 Q. When you arrived at 26 Federal 19 Plaza, did you speak to someone at the federal 20 agency? 21 A. Yes. 22 Q. Who? 23 A. I don't remember. 24 Q. What did that person tell you? 25 A. Mr. Dikler had gone through a</p>

<p>1 M. Visconti  2 metal detector at the entrance and it was in  3 the pocket of a jacket, the shield that he had  4 in his possession.</p> <p>5 Q. Did the Federal Protective  6 Service tell you it was a forged shield?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ask them why they  9 thought it was forged?</p> <p>10 MR. SILVERMAN: Objection to  11 the form.</p> <p>12 MS. PRIVETERRE: I join.  13 Do you understand the question?</p> <p>14 A. If you could rephrase it.</p> <p>15 Q. Did you ask him why he thought  16 that the shield was forged?</p> <p>17 MS. PRIVETERRE: Are you  18 talking about the Federal Protective  19 Service agency?</p> <p>20 MR. ZELMAN: Yes.</p> <p>21 MS. PRIVETERRE: Agency?</p> <p>22 MR. ZELMAN: Yes.</p> <p>23 A. I don't remember.</p> <p>24 Q. When you got to the scene it was  25 your determination to make about whether or</p>	<p>Page 42</p> <p>1 M. Visconti  2 Plaza, did you just put him in handcuffs?</p> <p>3 A. No.</p> <p>4 Q. Did you investigate the badge?</p> <p>5 Did you look at the badge?</p> <p>6 A. Yes.</p> <p>7 Q. What else did you do besides  8 look at it?</p> <p>9 A. I don't know what you mean, what  10 else?</p> <p>11 Q. You don't know what I mean?</p> <p>12 A. No. Are you --</p> <p>13 MS. PRIVETERRE: No, no, no,  14 you already told him you don't  15 understand what he means. Let him  16 rephrase it.</p> <p>17 Q. When you got to 26 Federal  18 Plaza, before you placed Mr. Dicker under  19 arrest, did you investigate the badge to  20 determine whether or not it was forged or not?</p> <p>21 A. Yes.</p> <p>22 Q. How?</p> <p>23 A. Simply by looking at it.</p> <p>24 Q. Anything else?</p> <p>25 A. No.</p>
<p>1 M. Visconti  2 not it was forged?</p> <p>3 A. Yes.</p> <p>4 MS. PRIVETERRE: Objection to  5 the form.</p> <p>6 Q. Can you describe the procedure  7 that you went through after you got through 26  8 Federal Plaza investigating this particular  9 badge?</p> <p>10 A. Yes.</p> <p>11 Q. Go ahead.</p> <p>12 A. Mr. Dikler was placed in  13 handcuffs, he was removed to the 5th Precinct  14 where pedigree information was taken, and an  15 online booking sheet was prepared. There was  16 a complaint report prepared, he was  17 fingerprinted and taken to Manhattan Central  18 Booking. I spoke with the Manhattan DA --</p> <p>19 Q. What I was really referring to  20 was prior to the arrest, can you describe  21 anything that you did or investigated about  22 this badge before you made the decision to  23 place Mr. Dikler under arrest?</p> <p>24 A. I don't understand the question.</p> <p>25 Q. When you got to 26 Federal</p>	<p>Page 43</p> <p>1 M. Visconti  2 Q. And you could tell by looking at  3 it that it was a forged badge?</p> <p>4 A. Yes.</p> <p>5 Q. Why is that?</p> <p>6 A. The specific shape of the badge  7 and what it said on the face of it.</p> <p>8 Q. When did it say on the face of  9 it?</p> <p>10 A. Again, I don't recall  11 specifically. It was something about the  12 Transit Authority.</p> <p>13 Q. Do you recall if that was the  14 first arrest that you made with respect to a  15 Transit Authority badge?</p> <p>16 A. I am not sure.</p> <p>17 Q. It is possible that there were  18 prior arrests?</p> <p>19 MS. PRIVETERRE: Objection.</p> <p>20 A. I am not sure.</p> <p>21 Q. How about after this arrest, did  22 you arrest any other Transit Authority  23 employees for carrying a badge?</p> <p>24 A. No, I don't believe so.</p> <p>25 Q. Do you recall how you became in</p>

<p>1 M. Visconti  2 possession of the badge? Did someone hand it  3 to you?  4 A. I don't remember.  5 Q. Do you remember if you saw it on  6 a desk?  7 A. I don't remember.  8 Q. Did you ever speak to Mr. Dikler  9 about the badge?  10 A. Yes.  11 Q. What did you ask him?  12 A. I don't remember.  13 Q. Do you remember what he  14 responded?  15 A. I don't remember.  16 Q. Do you have any memo book notes  17 that would assist you in determining that?  18 A. No.  19 Q. Any other documentation that  20 would assist you in determining what Mr.  21 Dikler told you?  22 A. No.  23 Q. Do you recall if he told you  24 that he worked at the MTA?  25 A. Yes.</p>	<p>Page 46</p> <p>1 M. Visconti  2 Q. Are you talking about your memo  3 book?  4 A. No.  5 Q. What type of notes are you  6 talking about?  7 A. Arrest paperwork.  8 Q. In other words it's what you  9 would enter on the computer?  10 MS. PRIVETERRE: Is that a  11 question?  12 MR. ZELMAN: Yes.  13 Q. I am asking you what type of  14 notes were these? Were these handwritten  15 notes?  16 A. Yes.  17 Q. What do you do with the  18 handwritten notes after the arrest?  19 A. It stays with the folder.  20 Q. So it is in the folder at the  21 internal affairs bureau?  22 A. Yes.  23 Q. Did you look at that in  24 preparation for today's deposition?  25 A. Yes.</p>
<p>1 M. Visconti  2 Q. Do you recall anything else that  3 he said?  4 A. No.  5 Q. You accompanied Mr. Dikler back  6 to the precinct?  7 A. Yes.  8 Q. Did he have to make a phone  9 call?  10 A. I don't remember.  11 Q. Do you recall telling Mr. Dikler  12 that it is better for him to call in sick  13 rather than to say he was arrested?  14 A. No.  15 Q. Do you deny that you said that?  16 A. Yes.  17 Q. Did you speak to Special Agent  18 Thomas Mahoney about this arrest?  19 A. I don't remember.  20 Q. Is there anything that you could  21 review that would assist you in determining  22 whether you spoke to him or not?  23 A. My notes, maybe.  24 Q. Where are your notes?  25 A. I don't know.</p>	<p>Page 47</p> <p>1 M. Visconti  2 Q. But you did not bring it with  3 you?  4 A. No.  5 Q. What is contained in the  6 internal affairs folder?  7 A. You have to rephrase that  8 question.  9 Q. You have an internal affairs  10 folder on Mr. Dikler; is that correct?  11 A. Internal affairs folder is not  12 really the right term, it is a broad term.  13 Q. How would you define it?  14 A. There are all different types of  15 folders.  16 Q. The folders that you looked at  17 today or yesterday refer to Mr. Dikler; is  18 that correct?  19 A. Yes.  20 Q. What type of folder is that?  21 A. In this particular case it is an  22 online booking, so there are some notes and an  23 affidavit.  24 Q. An affidavit?  25 A. Yes.</p>

<p>1                   M. Visconti</p> <p>2   Q.   What is the name of that folder?</p> <p>3   Does the folder have a name?</p> <p>4    A.  No.</p> <p>5    Q.  Does it say "Mr. Dikler" on it?</p> <p>6    A.  I have my own folder.</p> <p>7    Q.  So this is your own personal</p> <p>8    document at internal affairs?</p> <p>9    A.  Yes.</p> <p>10   Q.  Whose affidavit is this in that</p> <p>11    folder?</p> <p>12    A.  I don't understand.</p> <p>13    Q.  You said you looked at an</p> <p>14    affidavit in the folder; is that right?</p> <p>15    A.  Yes.</p> <p>16    Q.  Who signed the affidavit?</p> <p>17    A.  I did.</p> <p>18    Q.  What did the affidavit state?</p> <p>19    A.  I don't remember specifically.</p> <p>20    Q.  In general, what was it about?</p> <p>21    A.  It was in reference to the</p> <p>22    shield.</p> <p>23    Q.  What did it say about the</p> <p>24    shield?</p> <p>25    A.  It was a forged shield.</p>	<p>Page 50</p> <p>1                   M. Visconti</p> <p>2   paperwork at the internal affairs office?</p> <p>3    A.  Yes.</p> <p>4    Q.  You indicated that there is</p> <p>5    something from the Federal Protective agency;</p> <p>6    is that it?</p> <p>7                   MS. PRIVETERRE: Objection to</p> <p>8                   the form.</p> <p>9    Q.  What is the name of the federal</p> <p>10    agency?</p> <p>11    A.  I am not certain. I believe it</p> <p>12    is Federal Protective Service.</p> <p>13    Q.  You indicated just now there is</p> <p>14    a document in the folder from the Federal</p> <p>15    Protective Service.</p> <p>16                   Was that a document referring to</p> <p>17    Mr. Dikler himself or just generally about</p> <p>18    shields and badges?</p> <p>19    A.  You have to rephrase that</p> <p>20    question.</p> <p>21    Q.  Did that document that you just</p> <p>22    referred to from the Federal Protective</p> <p>23    Service relate to Mr. Dikler specifically?</p> <p>24    Did it list his name?</p> <p>25    A.  Yes, in regard to this incident.</p>
<p>1                   M. Visconti</p> <p>2   Q.  Is there anything else in the</p> <p>3   affidavit besides it was a forged shield?</p> <p>4    A.  Who I spoke to and his name.</p> <p>5    Q.  Mr. Dikler's name?</p> <p>6    A.  Yes, in general, things of that</p> <p>7   nature.</p> <p>8    Q.  How many pages is the affidavit?</p> <p>9    A.  I think it is less than a page.</p> <p>10   Q.  When you say who you spoke to,</p> <p>11   do you mean who you spoke to in regard to the</p> <p>12   arrest?</p> <p>13    A.  Yes.</p> <p>14    Q.  What was contained in your notes</p> <p>15   in that folder?</p> <p>16    A.  An online booking sheet,</p> <p>17   affidavit, the handwritten notes, the</p> <p>18   paperwork from the Federal Protective Service</p> <p>19   in regard to the shield. A central booking</p> <p>20   photo. I think that is probably about it.</p> <p>21   Maybe a few other -- that is about it.</p> <p>22    Q.  You have that information held</p> <p>23   at the internal affairs office?</p> <p>24    A.  No.</p> <p>25    Q.  I'm sorry, you have that</p>	<p>Page 51</p> <p>1                   M. Visconti</p> <p>2   Q.  So it was a document prepared</p> <p>3   specifically about Mr. Dikler's shield and</p> <p>4   arrest?</p> <p>5    A.  Yes.</p> <p>6                   MS. PRIVETERRE: Why don't you</p> <p>7                   show him the initial disclosure.</p> <p>8                   MR. ZELMAN: Relax. You could</p> <p>9                   show him before the deposition is</p> <p>10                   finished whatever you want.</p> <p>11                   MS. PRIVETERRE: Are you going</p> <p>12                   to mark it as an exhibit?</p> <p>13                   MR. ZELMAN: Yes.</p> <p>14    Q.  Did you speak to Police Officer</p> <p>15    Frank Torres about this arrest?</p> <p>16    A.  I don't know.</p> <p>17    Q.  Do you know if he was involved</p> <p>18   in the arrest in any manner?</p> <p>19    A.  No.</p> <p>20    Q.  Sergeant Robert Allay, did you</p> <p>21   speak to him about the arrest in any way?</p> <p>22    A.  I don't know.</p> <p>23    Q.  Do you know if he was involved</p> <p>24   in the arrest?</p> <p>25    Q.  Detective Gregory McCain, the</p>

<p style="text-align: right;">Page 54</p> <p>1                   M. Visconti  2 same question, did you speak to him about this  3 arrest?  4           A. He would have probably been my  5 partner.  6           Q. Do you recall speaking to him  7 about the arrest?  8           A. I don't understand the question.  9           Q. Do you recall speaking to him  10 about this arrest at any time?  11          A. Yes.  12          Q. When?  13          A. I guess on the date of the  14 arrest.  15          Q. At any other time did you speak  16 to him or was it only on that date?  17          A. I don't understand the question.  18          Q. At any other time did you speak  19 to Detective Gregory McCain about Mr. Dikler's  20 arrest other than on March 22, 2006?  21          A. Yes.  22          Q. When?  23          A. Everybody in my office probably  24 knew I was getting sued.  25          Q. I guess my question is this, on</p>	<p style="text-align: right;">Page 56</p> <p>1                   M. Visconti  2           Q. At any time did you speak to him  3 about the arrest?  4           A. No.  5           Q. Lieutenant Robert Stapleton, did  6 you speak to him at all about this arrest?  7           A. I am not even sure who that is.  8           Q. Did you ever learn what became  9 of Mr. Dikler's prosecution?  10          A. Yes.  11          Q. What?  12          A. It was sealed. Apparently, the  13 arrest was thrown out of court.  14          Q. When did you first learn that  15 information?  16          A. When I found out I was being  17 sued.  18          Q. You indicated earlier that you  19 spoke to the DA about the case on March 22.  20          A. Yes.  21          Q. Was that the last time you spoke  22 to the DA about the case?  23          A. Yes.  24          Q. Were you ever called to testify  25 in court?</p>
<p style="text-align: right;">Page 55</p> <p>1                   M. Visconti  2 March 22, 2006, what did you speak to him  3 about?  4           A. I don't remember.  5           MS. PRIVETERRE: That is a  6 different question now.  7           Q. You don't recall anything he  8 said about this?  9           A. No, I don't recall.  10          Q. Do you know if Detective Gregory  11 McCain was involved in the arrest in any way  12 other than the fact you spoke to him about it?  13 Did he prepare any paperwork on it, if you  14 know?  15          A. If he was my partner he might  16 have done some of the paperwork for me, and  17 entered it into the computer.  18          Q. Do you know if he did that?  19          A. Probably, but I am not sure.  20          Q. Detective Mark DaTollo, does  21 that name sound familiar to you?  22          A. He is a sergeant.  23          Q. Did you speak to him on March  24 22, at any time about this arrest?  25          A. No.</p>	<p style="text-align: right;">Page 57</p> <p>1                   M. Visconti  2           A. I don't remember.  3           Q. Did the DA tell you anything  4 about the case?  5           A. Not that I remember.  6           Q. The DA had you sign a criminal  7 court complaint?  8           A. Yes.  9           Q. Did you review that before you  10 signed it?  11          A. Yes.  12          Q. Mr. Dikler, do you recall if he  13 came with anyone to 26 Federal Plaza?  14          MS. PRIVETERRE: Do you know  15 that?  16          A. I was told that he did, yes.  17          Q. Do you recall if he was allowed  18 to go to his appointment before his arrest?  19          MR. SILVERMAN: Note my  20 objection to the form.  21          A. I don't remember.  22          Q. Do you know if it was the policy  23 of 26 Federal Plaza to confiscate the badge,  24 but allow the person to go to their  25 immigration appointment and then come back to</p>

<p style="text-align: right;">Page 58</p> <p>1                   M. Visconti  2 the office?  3                   MS. PRIVETERRE: Objection to  4                   the form. Are you aware of what the  5                   policy of 26 Federal Plaza is?  6                   THE WITNESS: Specifically, no.  7                   MR. ZELMAN: Counsel, you  8                   cannot suggest an answer, you could only  9                   object.  10                  Q. Are you aware if Mr. Dikler was  11                  allowed to go to his appointment on March 22,  12                  2006?  13                  MR. SILVERMAN: Note my  14                  objection to the form.  15                  A. I don't remember.  16                  Q. How long after Mr. Dikler  17                  arrived at 26 Federal Plaza and his badge was  18                  confiscated, did you arrive at 26 Federal  19                  Plaza?  20                  MS. PRIVETERRE: Do you know?  21                  A. I think it was a few hours.  22                  Q. A few hours?  23                  A. Yes.  24                  Q. Where is your office in internal  25                  affairs?</p>	<p style="text-align: right;">Page 60</p> <p>1                   M. Visconti  2                   MS. PRIVETERRE: He is asking  3                   you, specifically.  4                   MR. ZELMAN: You cannot stop him  5                   from answering a question.  6                   If this happens one more time, I  7                   am calling the judge. You cannot jump  8                   in and give him your two cents.  9                   MS. PRIVETERRE: Yes or no? Do  10                  you understand the question?  11                  [The requested portion of the  12                  record was read.]  13                  MR. ZELMAN: This is the last  14                  time, counsel. I am warning you, I  15                  will pick up the phone and I will call.  16                  MS. PRIVETERRE: We have been  17                  through that before.  18                  MR. ZELMAN: He is answering  19                  the question and you cannot interrupt  20                  me.  21                  MS. PRIVETERRE: Do what you  22                  will.  23                  MR. ZELMAN: Please read back  24                  the question and answer.  25                  [The requested portion of the</p>
<p style="text-align: right;">Page 59</p> <p>1                   M. Visconti  2                  A. Long Island City.  3                  Q. Long Island City?  4                  A. Yes.  5                  Q. So you had to go from Long  6                  Island City to 26 Federal Plaza?  7                  A. I don't think I was in my office  8                  at the time.  9                  Q. Do you recall where you were  10                 when you received this call?  11                  A. No.  12                  Q. Do you recall how long it took  13                 you to get to 26 Federal Plaza?  14                  A. No.  15                  Q. Do you know if it was more than  16                 an hour?  17                  A. Not for certain, no.  18                  Q. Was it your understanding that  19                 Mr. Dikler could go out of the building while  20                 he was waiting for you to arrive at 26 Federal  21                 Plaza, or was it your understanding that he  22                 was already in custody?  23                  A. Generally, when they call us  24                 they are already in the building. I don't  25                 know if he was really in custody.</p>	<p style="text-align: right;">Page 61</p> <p>1                   M. Visconti  2                  record was read.]  3                  MS. PRIVETERRE: Read back the  4                  last question and answer again for me,  5                  please.  6                  [The requested portion of the  7                  record was read.]  8                  (Brief recess.)  9                  Q. Prior to the arrest of Mr.  10                 Dikler, did you check his arrest record?  11                  A. No.  12                  Q. Do you know if he had ever been  13                 arrested before?  14                  A. I am not sure.  15                  Q. Were there any phone calls  16                 between you and the DA at any time?  17                  A. Yes.  18                  Q. How many?  19                  A. I don't remember.  20                  Q. Phone calls regarding Mr.  21                 Dikler?  22                  A. Yes.  23                  Q. Do you recall the nature of  24                 those phone conversations?  25                  A. With regard to the arrest?</p>

<p>1                   M. Visconti</p> <p>2   Q.  Specifically.</p> <p>3   A.  Details of the arrest.</p> <p>4   Q.  Do you remember any specific</p> <p>5   questions that the DA asked?</p> <p>6   A.  No.</p> <p>7   Q.  Do you remember any answers that</p> <p>8   you gave?</p> <p>9   A.  Specifically, no.</p> <p>10   Q.  In general.</p> <p>11   A.  No.</p> <p>12   Q.  Did you call the DA or did the</p> <p>13  DA call you or both?</p> <p>14   A.  Both.</p> <p>15   Q.  Was this all on March 22?</p> <p>16   A.  I am not sure.</p> <p>17   Q.  It is possible that you spoke to</p> <p>18  the DA after March 22, regarding Mr. Dikler?</p> <p>19   A.  Yes.</p> <p>20   Q.  Do you think that you did?</p> <p>21                   MS. PRIVETERRE:  Objection.</p> <p>22   A.  You have to rephrase the</p> <p>23  question.</p> <p>24   Q.  Do you believe that you did?</p> <p>25   A.  Rephrase the question again in</p>	<p>Page 62</p> <p>1                   M. Visconti</p> <p>2   A.  I don't remember.</p> <p>3   Q.  -- before or after the March 22,</p> <p>4  2006 arrest?</p> <p>5   A.  I am not sure.</p> <p>6   Q.  Did you inquire in writing?  Did</p> <p>7  you inquire orally?</p> <p>8   A.  Orally.</p> <p>9   Q.  You don't recall who you spoke</p> <p>10 to?</p> <p>11                   MS. PRIVETERRE:  Objection.</p> <p>12   A.  No.</p> <p>13   Q.  Do you recall who you called?</p> <p>14   A.  The MTA.</p> <p>15   Q.  Do you remember what the</p> <p>16  response was that you got?</p> <p>17   A.  Yes.</p> <p>18   Q.  What was it?</p> <p>19   A.  They are not allowed to have</p> <p>20  shields.</p> <p>21   Q.  But you do not know who said</p> <p>22 that?</p> <p>23   A.  No.</p> <p>24   Q.  And it was not in writing?</p> <p>25   A.  No.</p>
<p>1                   M. Visconti</p> <p>2  regard to that.</p> <p>3   Q.  Do you believe that you spoke to</p> <p>4  the DA with regard to Mr. Dikler after March</p> <p>5 22, 2006?</p> <p>6   A.  No.</p> <p>7   Q.  You believe it happened all on</p> <p>8 March 22?</p> <p>9   A.  Yes.</p> <p>10   Q.  If you had known that Mr. Dikler</p> <p>11 had purchased his badge on MTA property, would</p> <p>12 that have changed your decision about whether</p> <p>13 to effectuate an arrest?</p> <p>14   A.  No.</p> <p>15   Q.  Did you ever inquire of the MTA</p> <p>16 if it allowed its workers to purchase badges</p> <p>17 on its premises?</p> <p>18   MS. PRIVETERRE:  When?</p> <p>19   A.  Rephrase the question.</p> <p>20   MR. ZELMAN:  Please read it</p> <p>21 back.</p> <p>22   [The requested portion of the</p> <p>23 record was read.]</p> <p>24   A.  Yes.</p> <p>25   Q.  When --</p>	<p>Page 63</p> <p>1                   M. Visconti</p> <p>2   Q.  Before you arrested Mr. Dikler,</p> <p>3  had you ever seen a TA employee with a shield?</p> <p>4   A.  I don't remember.</p> <p>5   Q.  You don't remember?</p> <p>6   A.  No.</p> <p>7                   MS. PRIVETERRE:  In his</p> <p>8 capacity --</p> <p>9                   MR. ZELMAN:  I am asking him</p> <p>10 the questions.</p> <p>11                   MS. PRIVETERRE:  -- as an</p> <p>12 officer?</p> <p>13                   MR. ZELMAN:  Counsel, you can't</p> <p>14 ask questions.  You could object.</p> <p>15                   That is all you could do.</p> <p>16                   MS. PRIVETERRE:  Did I object</p> <p>17 to that question about had he ever seen</p> <p>18 an MTA shield?</p> <p>19                   Now I want to object to the</p> <p>20 question.</p> <p>21   Q.  Did you believe that Mr. Dikler</p> <p>22 felt his badge was forged?</p> <p>23                   MS. PRIVETERRE:  Objection to</p> <p>24 the form.</p> <p>25   A.  I wouldn't know that.</p>

<p>1 M. Visconti</p> <p>2 Q. You didn't develop an opinion on</p> <p>3 that matter?</p> <p>4 MS. PRIVETERRE: Objection.</p> <p>5 A. No.</p> <p>6 Q. Did he deny that it was a forged</p> <p>7 badge?</p> <p>8 A. I don't remember</p> <p>9 Q. After you arrested Mr. Dikler,</p> <p>10 did you ever advise him about what would</p> <p>11 likely happen to his case?</p> <p>12 MS. PRIVETERRE: Objection.</p> <p>13 A. I don't remember.</p> <p>14 Q. Did you ever say that the</p> <p>15 forgery charge is likely to get dismissed?</p> <p>16 A. I don't remember.</p> <p>17 Q. Before you arrested Mr. Dikler,</p> <p>18 did you have any knowledge about what the</p> <p>19 court would likely do with this case?</p> <p>20 MS. PRIVETERRE: Objection.</p> <p>21 A. No.</p> <p>22 Q. When you made the arrest of Mr.</p> <p>23 Dikler, it was not your contention that the</p> <p>24 information contained within the badge was in</p> <p>25 any way inaccurate; is that correct?</p>	<p>Page 66</p> <p>1 M. Visconti</p> <p>2 of badges would typically say?</p> <p>3 MS. PRIVETERRE: Objection.</p> <p>4 Objection to the word "typical."</p> <p>5 A. There is no --</p> <p>6 Q. No typical badge?</p> <p>7 A. No.</p> <p>8 Q. In possessing the type of badge</p> <p>9 that Mr. Dikler had, did you form an opinion</p> <p>10 as to whether or not he had an intent to</p> <p>11 deceive with it?</p> <p>12 MS. PRIVETERRE: Objection.</p> <p>13 A. No.</p> <p>14 Q. You did not form an opinion?</p> <p>15 A. No.</p> <p>16 Q. Do you have an opinion today</p> <p>17 about that?</p> <p>18 A. No.</p> <p>19 Q. Do you suspect that he was</p> <p>20 trying to deceive somebody with it or not?</p> <p>21 MS. PRIVETERRE: Objection.</p> <p>22 Asked and answered.</p> <p>23 MR. SILVERMAN: Objection to</p> <p>24 the form.</p> <p>25 A. I don't know.</p>
<p>1 M. Visconti</p> <p>2 MS. PRIVETERRE: Objection.</p> <p>3 May I have that read back?</p> <p>4 [The requested portion of the</p> <p>5 record was read.]</p> <p>6 MS. PRIVETERRE: Do you</p> <p>7 understand that question?</p> <p>8 THE WITNESS: No, I did not.</p> <p>9 Q. Was it your belief that the</p> <p>10 information contained within the badge was in</p> <p>11 any way inaccurate?</p> <p>12 MR. SILVERMAN: Objection to</p> <p>13 the form.</p> <p>14 A. I don't understand the question.</p> <p>15 Q. Do you recall the information</p> <p>16 that the badge had on it?</p> <p>17 A. Not specifically.</p> <p>18 Q. Do you recall that it had Mr.</p> <p>19 Dikler's name?</p> <p>20 MS. PRIVETERRE: Objection.</p> <p>21 A. I don't remember.</p> <p>22 Q. Do you remember any information</p> <p>23 that was on the badge?</p> <p>24 A. Specifically, no.</p> <p>25 Q. Do you remember what those types</p>	<p>Page 67</p> <p>1 M. Visconti</p> <p>2 Q. Who made the decision about the</p> <p>3 arrest charges? Was it your decision or was</p> <p>4 it someone else's?</p> <p>5 A. Mine.</p> <p>6 Q. Do you recall what the arrest</p> <p>7 charges were?</p> <p>8 A. It was for the possession of a</p> <p>9 forged instrument.</p> <p>10 Q. Do you recall anything else?</p> <p>11 A. I am not sure.</p> <p>12 Q. Was there also one charge for</p> <p>13 the unauthorized use of detective</p> <p>14 identification, General Business Law Section</p> <p>15 80.</p> <p>16 A. I am not sure. That might have</p> <p>17 been one.</p> <p>18 Q. That might have been one?</p> <p>19 A. I am not sure.</p> <p>20 MS. PRIVETERRE: Are we going</p> <p>21 to mark it as an exhibit, counselor?</p> <p>22 MR. ZELMAN: No, I am not.</p> <p>23 MS. PRIVETERRE: You are</p> <p>24 referring to something.</p> <p>25 MR. ZELMAN: I could look at</p>

<p>1 M. Visconti 2 anything I want. 3 MS. PRIVETERRE: The witness 4 does not have the benefit of seeing 5 that. 6 MR. ZELMAN: You could show him 7 whatever you want. I am not here to 8 prepare your witness. 9 MS. PRIVETERRE: You are 10 referring to a document -- 11 MR. ZELMAN: Counsel, please. 12 Q. Was it your opinion that Mr. 13 Dikler had violated General Business Law 14 Section 80? 15 A. I am not sure. 16 Q. Do you recall what the General 17 Business Law Section 80 is? 18 A. No. 19 Q. How would you make a 20 determination about what the arrest charges 21 were? 22 A. Based on the incident. 23 Q. And how would you determine 24 which arrest charges to apply to the incident? 25 A. Would you please rephrase the</p>	<p>Page 70</p> <p>1 M. Visconti 2 bulletin that I had explained about earlier. 3 Q. That is the same instruction 4 sheet that you had from the Federal Protective 5 Service or a different intelligent bulletin? 6 MR. SILVERMAN: Note my 7 objection to the form. 8 MS. PRIVETERRE: I join. 9 Q. What intelligent bulletin are 10 you referring to? 11 A. The one issued by the New York 12 Police Department. 13 Q. Do you recall how many pages 14 that was? 15 MS. PRIVETERRE: Asked and 16 answered. Objection. 17 A. One. 18 Q. It was one page? 19 A. Yes. 20 Q. The way you extrapolated which 21 charge to charge Mr. Dikler, were those 22 charges listed on the form itself? 23 MS. PRIVETERRE: Objection. 24 A. What? 25 Q. Before you charged Mr. Dikler</p>
<p>1 M. Visconti 2 question. 3 Q. You were the one who decided 4 which arrest charges to apply to Mr. Dikler; 5 is that correct? 6 MS. PRIVETERRE: Objection. 7 A. Yes. 8 Q. How did you determine those 9 arrest charges versus other arrest charges? 10 For example, the possession of a forged 11 instrument in the second degree? 12 MS. PRIVETERRE: Objecting. 13 Q. That was an arrest charge; is 14 that correct. 15 MS. PRIVETERRE: Objection. 16 A. Repeat that. 17 Q. Was the possession of a forged 18 instrument in the second degree the arrest 19 charge? 20 A. I think so, yes. 21 Q. How did you determine that 22 particular charge as opposed to first degree, 23 the third degree or some other violation of 24 the statute? 25 A. Based on the intelligence</p>	<p>Page 71</p> <p>1 M. Visconti 2 with an arrest charge, would you have read the 3 law on it? 4 A. Explain it better. 5 Q. One of the arrest charges was 6 the possession of a forged instrument in the 7 second degree; is that correct? 8 A. Yes. 9 Q. You indicated that you would use 10 the instruction sheet to make the 11 determination that was the arrest charge to 12 apply to Mr. Dikler -- 13 MS. PRIVETERRE: Objection. 14 Q. -- is that correct? 15 A. To some extent, yes. 16 Q. Would you also then read that 17 particular statute, the possession of a forged 18 instrument, on your own? Would you read that 19 item as to whether it applied to this 20 particular event? 21 A. Not necessarily. 22 Q. Do you recall if you did that in 23 this case? 24 A. No. 25 Q. How about generally?</p>

<p>1 M. Visconti</p> <p>2 MS. PRIVETERRE: No, you don't</p> <p>3 recall or no, you didn't?</p> <p>4 A. No, I don't recall.</p> <p>5 MS. PRIVETERRE: Then you</p> <p>6 should say so.</p> <p>7 Q. With regard to General Business</p> <p>8 Law Section 80, do you recall whether you read</p> <p>9 that before you determined it was an arrest</p> <p>10 charge?</p> <p>11 A. No.</p> <p>12 Q. So, typically, the way that you</p> <p>13 determine an arrest charge is to read an NYPD</p> <p>14 memo or instruction sheet?</p> <p>15 MS. PRIVETERRE: Objection to</p> <p>16 the form.</p> <p>17 A. No.</p> <p>18 Q. How do you typically determine</p> <p>19 what the arrest charges are?</p> <p>20 A. It depends on the incident.</p> <p>21 Q. How do you determine what the</p> <p>22 charges are?</p> <p>23 A. It depends on the incident.</p> <p>24 MS. PRIVETERRE: Asked and</p> <p>25 answered.</p>	<p>Page 74</p> <p>1 M. Visconti</p> <p>2 the witness.</p> <p>3 MR. ZELMAN: I am not badgering</p> <p>4 him.</p> <p>5 MS. PRIVETERRE: You are being</p> <p>6 argumentative.</p> <p>7 MR. ZELMAN: No, I am not.</p> <p>8 If you want to talk, this is not the</p> <p>9 time. You are allowed to object. I</p> <p>10 said it four times.</p> <p>11 MS. PRIVETERRE: I won't allow</p> <p>12 you to badger the witness.</p> <p>13 MR. ZELMAN: Let's call the</p> <p>14 court. I am sick of this. If you</p> <p>15 want to call the court, then let's do</p> <p>16 it.</p> <p>17 MS. PRIVETERRE: You are</p> <p>18 badgering him. He is asking you for a</p> <p>19 clarification. You keep saying, what</p> <p>20 doesn't he understand.</p> <p>21 MR. ZELMAN: You can't speak</p> <p>22 during a deposition, doesn't that sink</p> <p>23 in with you?</p> <p>24 MS. PRIVETERRE: I am not the</p> <p>25 one badgering the witness.</p>
<p>1 M. Visconti</p> <p>2 Q. In this particular case one of</p> <p>3 the arrest charges was possession of a forged</p> <p>4 instrument in the second degree.</p> <p>5 A. Yes.</p> <p>6 Q. My question is, how did you make</p> <p>7 a determination that it was possession of a</p> <p>8 forged instrument in the second degree and not</p> <p>9 possession of a forged instrument in the third</p> <p>10 degree?</p> <p>11 MS. PRIVETERRE: Objection.</p> <p>12 A. I don't understand what it is</p> <p>13 you are asking?</p> <p>14 Q. You don't understand that</p> <p>15 question?</p> <p>16 A. No.</p> <p>17 Q. What don't you understand about</p> <p>18 it?</p> <p>19 MS. PRIVETERRE: That is</p> <p>20 badgering. I think he is asking you to</p> <p>21 rephrase the question.</p> <p>22 MR. ZELMAN: I rephrased it four</p> <p>23 times. I don't know what he doesn't</p> <p>24 understand about it.</p> <p>25 MS. PRIVETERRE: Don't badger</p>	<p>Page 75</p> <p>1 M. Visconti</p> <p>2 MR. ZELMAN: I am not the one</p> <p>3 badgering anyone but you at this time.</p> <p>4 MS. PRIVETERRE: You can't</p> <p>5 badger anyone, let alone the deponent.</p> <p>6 MR. ZELMAN: You can't speak</p> <p>7 during the deposition. It is just that</p> <p>8 simple.</p> <p>9 MS. PRIVETERRE: He is asking</p> <p>10 you to clarify. You don't come back</p> <p>11 with, what don't you understand.</p> <p>12 MR. ZELMAN: And this is all on</p> <p>13 the record.</p> <p>14 Q. Sir, I am going to ask you</p> <p>15 again: With respect to Mr. Dikler, it was</p> <p>16 your determination, was it not, that he was in</p> <p>17 violation of the law, possession of a forged</p> <p>18 instrument in the second degree; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. That is a specific charge in the</p> <p>22 law; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. My question is: How did you</p> <p>25 determine that specific law was the law that</p>

<p>1 M. Visconti  2 he violated and not some other law?  3 A. I was guided by the NYPD  4 bulletin.  5 Q. Other than the NYPD bulletin,  6 was there any other instrument or any other  7 influence in your determination about what the  8 arrest charge was other than the bulletin?  9 A. No.  10 Q. Did someone tell you that this  11 is what you were supposed to charge him with,  12 you read that law or was it something else?  13 A. No.  14 Q. What did the bulletin say that  15 made you determine to charge Mr. Dikler with  16 possession of a forged instrument in the  17 second degree?  18 A. I don't remember specifically.  19 Q. The same is true with respect to  20 General Business Law Section 80?  21 A. Yes.  22 MS. PRIVETERRE: Objection.  23 Q. You don't remember what  24 specifically the instruction sheet said with  25 regard to that, but that is where you believe</p>	<p>Page 78</p> <p>1 M. Visconti  2 (Plaintiffs' Exhibit 1, document  3 dated March 22, 2006 marked for  4 identification, as of this date.)  5 Q. I would ask you and your counsel  6 to take a look at that.  7 MR. SILVERMAN: May I see that  8 too?  9 MS. PRIVETERRE: Sure.  10 Q. Is that your signature on the  11 bottom of that page?  12 A. Yes.  13 Q. And you signed that on 3/22/06?  14 A. Yes.  15 Q. Before you signed that, you read  16 this document?  17 A. Yes.  18 Q. On the first paragraph of the  19 document, it indicates that Mr. Dikler had an  20 intent to defraud, deceive and injure another;  21 is that correct?  22 A. Yes.  23 Q. And you also indicated that you  24 were informed by Mr. Vega that the informant  25 recovered a forged New York City Police</p>
<p>1 M. Visconti  2 that you got the information to charge him  3 with that offense?  4 A. Yes.  5 Q. Okay. Thank you very much.  6 A. You are welcome.  7 Q. Do you know if the DA decided to  8 use the arrest charges as criminal charges?  9 A. I don't remember.  10 Q. Did you ever become aware that  11 criminal possession of a forged instrument in  12 the second degree requires an intent to  13 defraud, deceive or injure somebody?  14 A. No.  15 Q. Are you aware of that today?  16 A. No.  17 Q. Did you speak to Security  18 Officer Wilson Vega regarding Mr. Dikler?  19 A. I don't remember.  20 Q. Do you know if he told you  21 anything about what had happened?  22 A. I don't remember.  23 MR. ZELMAN: Please mark this  24 as Plaintiffs' Exhibit 1 for  25 identification.</p>	<p>Page 79</p> <p>1 M. Visconti  2 Department detective-type shield; is that  3 correct?  4 A. Yes.  5 Q. And it was recovered from inside  6 the detective's jacket?  7 A. Yes.  8 Q. That is what the document says?  9 A. Yes.  10 Q. Did he indicate that he had  11 recovered a forged detective-style shield?  12 A. I don't remember if I spoke to  13 him specifically.  14 Q. If he denies that he said that,  15 would you believe that is incorrect?  16 MS. PRIVETERRE: Objection.  17 MR. SILVERMAN: Objection to  18 the form.  19 A. No.  20 Q. Do you recall if Mr. Vega ever  21 in writing advised you that he recovered a  22 forged New York City police detective-style  23 shield?  24 A. I think that was in the report  25 that I indicated earlier.</p>

<p>1 M. Visconti</p> <p>2 Q. Did Mr. Vega ever express an</p> <p>3 opinion about whether the shield was forged?</p> <p>4 A. Not that I know.</p> <p>5 Q. Is there anything else about</p> <p>6 this particular arrest that you recall that I</p> <p>7 have not asked you about?</p> <p>8 A. No.</p> <p>9 Q. Did you place handcuffs on Mr.</p> <p>10 Dikler?</p> <p>11 A. Yes.</p> <p>12 Q. How long was he in handcuffs</p> <p>13 for?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you know how long he was in</p> <p>16 custody for?</p> <p>17 A. A few hours. I am not sure.</p> <p>18 Q. Did you transport him to central</p> <p>19 booking?</p> <p>20 A. I don't remember.</p> <p>21 Q. Do you remember being at central</p> <p>22 booking that day, March 22?</p> <p>23 A. I don't remember.</p> <p>24 Q. Do you remember anything that he</p> <p>25 told you?</p>	<p>Page 82</p> <p>1 M. Visconti</p> <p>2 is?</p> <p>3 A. No.</p> <p>4 Q. You never saw it before?</p> <p>5 A. No.</p> <p>6 Q. Do you believe that you</p> <p>7 completed this document?</p> <p>8 A. No.</p> <p>9 Q. The shield that was recovered</p> <p>10 from Mr. Dikler, do you know if it was ever</p> <p>11 given back to him?</p> <p>12 A. No.</p> <p>13 Q. You don't know?</p> <p>14 A. No.</p> <p>15 Q. The shield that was recovered</p> <p>16 from Mr. Dikler, do you recall if it had an</p> <p>17 identifying number on it?</p> <p>18 A. I think so, but I am not sure.</p> <p>19 Q. That identifying number, was</p> <p>20 that ever corresponded to Mr. Dikler's</p> <p>21 employment at the Transit Authority?</p> <p>22 MS. PRIVETERRE: Objection.</p> <p>23 MR. SILVERMAN: Objection.</p> <p>24 MR. PRIVETERRE: Objection to</p> <p>25 the form.</p>
<p>1 M. Visconti</p> <p>2 A. No.</p> <p>3 Q. Did you speak to any civilian</p> <p>4 witnesses about this event?</p> <p>5 A. I don't remember.</p> <p>6 Q. And you never spoke to his</p> <p>7 employer about this?</p> <p>8 A. No.</p> <p>9 MR. ZELMAN: Please mark this</p> <p>10 exhibit as Plaintiffs' Exhibit 2 for</p> <p>11 identification.</p> <p>12 (Plaintiffs' Exhibit 2, document</p> <p>13 marked for identification, as of this</p> <p>14 date.)</p> <p>15 Q. I would just ask you if you</p> <p>16 recognize that document?</p> <p>17 A. No.</p> <p>18 Q. Does it have your name on the</p> <p>19 top of the page?</p> <p>20 A. No.</p> <p>21 Q. Did you write that?</p> <p>22 A. No.</p> <p>23 Q. Do you know who did?</p> <p>24 A. No.</p> <p>25 Q. Do you know what this document</p>	<p>Page 83</p> <p>1 M. Visconti</p> <p>2 A. I don't remember.</p> <p>3 Q. You understand the question,</p> <p>4 though?</p> <p>5 A. Yes.</p> <p>6 Q. Have you ever had a discussion</p> <p>7 at the Internal Affairs Bureau about,</p> <p>8 generally, a policy of inspecting badges at 26</p> <p>9 Federal Plaza?</p> <p>10 A. I don't understand the question.</p> <p>11 Q. At internal affairs with your</p> <p>12 colleagues or supervisor have you ever had a</p> <p>13 discussion about the fact there is a policy of</p> <p>14 inspecting badges at 26 Federal Plaza?</p> <p>15 A. Yes.</p> <p>16 Q. Is it common knowledge at</p> <p>17 internal affairs that anybody who goes through</p> <p>18 26 Federal Plaza and has a badge, that badge</p> <p>19 will be examined?</p> <p>20 MS. PRIVETERRE: Objection.</p> <p>21 A. I don't understand the question.</p> <p>22 Q. In general, at internal affairs,</p> <p>23 what is discussed specifically regarding 26</p> <p>24 Federal Plaza regarding badges?</p> <p>25 A. Now?</p>

<p>1                   M. Visconti</p> <p>2   Q.  Yes.</p> <p>3   A.  Today?</p> <p>4   Q.  Or in 2006.</p> <p>5   A.  I don't understand.</p> <p>6   Q.  Is it a fairly typical</p> <p>7 assignment for an internal affairs</p> <p>8 investigator to have to report to 26 Federal</p> <p>9 Plaza in 2003 or 2004, in order to inspect the</p> <p>10 shield or badge?</p> <p>11                  MS. PRIVETERRE: Objection to</p> <p>12 the form.</p> <p>13                  You could answer the question,</p> <p>14 if you understand it.</p> <p>15   A.  Not necessarily.</p> <p>16   Q.  But this was the first time you</p> <p>17 did an arrest at 26 Federal Plaza; is that</p> <p>18 correct?</p> <p>19   A.  That I remember.</p> <p>20   Q.  Did you ever speak to other</p> <p>21 colleagues if they had performed an arrest at</p> <p>22 26 Federal Plaza with regard to similar shield</p> <p>23 or badge issues?</p> <p>24   A.  Yes.</p> <p>25   Q.  How many other times have you</p>	<p>Page 86</p> <p>1                   M. Visconti</p> <p>2   A.  Yes.</p> <p>3   Q.  Would that be very unusual?</p> <p>4   A.  Yes.</p> <p>5   Q.  What about five people, would</p> <p>6 that be unusual?</p> <p>7   A.  The question, it is not -- there</p> <p>8 is no specific answer.</p> <p>9   Q.  Are you aware of a policy of</p> <p>10 arrest at 26 Federal Plaza with respect to</p> <p>11 badges?</p> <p>12   A.  Yes.</p> <p>13   Q.  What is that policy?</p> <p>14   A.  At 26 Federal Plaza, if someone</p> <p>15 would go into 26 Federal Plaza with a shield</p> <p>16 they would notify my office.</p> <p>17   Q.  Are you aware of any other</p> <p>18 facility that has that policy, that when</p> <p>19 anyone comes into the facility with a badge,</p> <p>20 they are going to notify internal affairs?</p> <p>21   A.  My unit is notified in regard to</p> <p>22 all shields.</p> <p>23   Q.  My question is this, with</p> <p>24 respect to the policy, are you aware of</p> <p>25 another facility, a federal facility or a</p>
<p>1                   M. Visconti</p> <p>2 had any other discussion with other people at</p> <p>3 internal affairs?</p> <p>4   A.  I don't remember.</p> <p>5   Q.  Do you have any idea how many</p> <p>6 other people got stopped at 26 Federal Plaza</p> <p>7 with respect to their badges?</p> <p>8   A.  I don't know.</p> <p>9   Q.  Do you know if it was more than</p> <p>10 100?</p> <p>11   A.  I don't know.</p> <p>12   Q.  Do you know if any other persons</p> <p>13 were arrested on March 22, 2006, with respect</p> <p>14 to carrying a badge at 26 Federal Plaza?</p> <p>15   A.  I don't know.</p> <p>16   Q.  Would it surprise you to learn</p> <p>17 that 20 people that day were arrested at 26</p> <p>18 Federal Plaza for the same thing?</p> <p>19                  MS. PRIVETERRE: Objection to</p> <p>20 the form.</p> <p>21   A.  Could you ask the question</p> <p>22 again? I don't understand it.</p> <p>23   Q.  Would this be unusual in your</p> <p>24 opinion, that 20 people got arrested in one</p> <p>25 day for carrying badges at 26 Federal Plaza?</p>	<p>Page 87</p> <p>1                   M. Visconti</p> <p>2 state facility or some other type of facility</p> <p>3 that if someone comes in with a badge they</p> <p>4 would call internal affairs?</p> <p>5                  MS. PRIVETERRE: Objection.</p> <p>6   A.  Yes.</p> <p>7   Q.  What other facility?</p> <p>8   A.  One Police Plaza.</p> <p>9   Q.  Any other facility?</p> <p>10   A.  I don't know.</p> <p>11   Q.  Where did you first learn about</p> <p>12 the policy that 26 Federal Plaza had?</p> <p>13   A.  Where?</p> <p>14   Q.  Yes.</p> <p>15   A.  At my office.</p> <p>16   Q.  How did you learn that? Did</p> <p>17 someone tell you? Did you read a memo? Did</p> <p>18 you receive a phone call?</p> <p>19   A.  I was informed by a supervisor.</p> <p>20   Q.  Do you remember which supervisor</p> <p>21 told you about it?</p> <p>22   A.  No.</p> <p>23   Q.  Pursuant to that policy of</p> <p>24 inspecting badges at 26 Federal Plaza, are you</p> <p>25 aware of approximately how many arrests had</p>

1 M. Visconti  
 2 taken place?  
 3 A. No.  
 4 Q. Do you remember when that policy  
 5 began?  
 6 A. No.  
 7 Q. Is it safe to say that Mr.  
 8 Dikler's arrest was not the only arrest for  
 9 violation of that policy?  
 10 A. Yes.  
 11 MS. PRIVETERRE: Objection to  
 12 the form.  
 13 Q. Can you estimate how many more  
 14 people were arrested?  
 15 A. No.  
 16 MR. ZELMAN: No further  
 17 questions. Thank you.  
 18 MR. SILVERMAN: I have no  
 19 questions. Thank you.  
 20 THE WITNESS: Thank you.  
 21  
 22 (Whereupon, at 1:15 p.m., the  
 23 examination of the witness was  
 24 concluded.)  
 25

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 2 CERTIFICATION  
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 4  
 5 I, MINDY CORCORAN, hereby  
 6 certify that the within was held before  
 7 me on the 21st day of May, 2008.  
 8 That the testimony was taken  
 9 stenographically by myself.  
 10 That the within transcript is a  
 11 true and accurate record.  
 12 That I am not connected by blood  
 13 or marriage with any of the parties. I  
 14 am not interested directly or indirectly  
 15 in the matter in controversy.  
 16 IN WITNESS WHEREOF, I have  
 17 hereunto set my hand this 21st day of  
 18 May, 2008.  
 19  
 20 MINDY CORCORAN  
 21  
 22  
 23  
 24  
 25

1 M. Visconti  
 2 MICHAEL VISCONTI  
 3 Subscribed and sworn to  
 4 before me this \_\_\_\_ day  
 5 of \_\_\_\_\_, 2008.  
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 7 Notary Public  
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 2 I N D E X  
 3 WITNESS: MICHAEL VISCONTI  
 4 EXAMINATION PAGE  
 5 By Mr. Zelman 5  
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 7 PLAINTIFFS'  
 8 EXHIBITS DESCRIPTION PAGE  
 9 1 Document dated March 22,  
 10 2006 80  
 11 2 Document 83  
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 13 DIRECTIONS  
 14 PAGE LINE  
 15 (None)  
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 17 REQUESTS  
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 19 PAGE LINE  
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4     ERRATA SHEET FOR TRANSCRIPT  
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2                   MICHAEL VISCONTI  
3     Subscribed and sworn to  
4     before me this \_\_\_\_\_  
5     day of \_\_\_\_\_, 2008.  
6  
7     NOTARY PUBLIC